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FASHION, INC.

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

12 CITY PRINTS, LLC, a New York  
13 Limited Liability Company;

14 Plaintiff.

15 || VS.

16 SHOSHO FASHION, INC., a  
17 California Corporation; ROSS  
18 STORES, INC., a Delaware  
Corporation; L'PATRICIA, INC., a  
Texas Corporation; and DOES 1-10,  
inclusive.

## Defendants

Case No. 2:15-cv-09242 RGK (ASx)

**JOINT REPORT PURSUANT TO  
FRCP RULE 26(f) AND LOCAL  
RULE 26-1**

Judge: Hon. R. Gary Klausner  
Location: 255 East Temple St.  
Courtroom: 850  
Date: March 28, 2016  
Time: 9:00 AM

1 By and through their attorneys of record, the parties hereby submit this Rule 26(f)  
 2 Joint Scheduling Report following the conference of counsel required by Rule 26(f)  
 3 of the Federal Rules of Civil Procedure, Central District Local Rule 26-1, and this  
 4 Court's Order setting a Scheduling Conference.

5 **SUBJECT MATTER JURISDICTION**

6 This action arises under the Copyright Act of 1976, Title 17 U.S.C. § 101 *et*  
 7 *seq.* Accordingly, this Court has federal question jurisdiction under 28 U.S.C. §§  
 8 1331, 1338(a) and (b).

9

10 **CHRONOLOGY OF FACTS AND FACTS IN DISPUTE**

11 **A. Plaintiff's Contentions**

12 Plaintiff filed the instant action on November 30, 2015.

13 Plaintiff alleges that the named Defendants have, without proper authorization,  
 14 copied, purchased, marketed, and/or sold among each other and to the general public  
 15 as customers clothes bearing a design entitled "P11201," registered by Plaintiff with  
 16 the U.S. Copyright Office (Reg. No. VA 1-879-256)(the "Disputed Goods").

17 **B. Defendants' Contentions**

18 Shosho is a re-seller of the Disputed Goods. Shosho contends that it did not  
 19 design or manufacture the the Disputed Goods, and that it purchased the Disputed  
 20 Goods from China and re-sells them in the U.S. with no knowledge of Plaintiff's  
 21 design or of the Disputed Goods. Shosho also contends that it stopped purchasing  
 22 and re-selling the Disputed Goods upon receiving Plaintiff's notification of Plaintiff's  
 23 design. In addition, Shosho contends that its sales volume of the Disputed Goods is  
 24 relatively small. Shosho further contends that it has little or virtually no control over  
 25 the designer and manufacturer of the Disputed Goods.

26 Currently, Plaintiff has only served Shosho. Therefore, Shosho responds to  
 27 Plaintiff's allegations and/or contentions from Shosho's perspective. Should Plaintiff

1 add any parties to this action, Shosho reserves its right to supplement its responses as  
2 needed.

3

4 **STATEMENT OF DISPUTED POINTS OF LAW**

5 The key legal issues are: whether defendants have infringed, directly or  
6 indirectly, Plaintiff's copyright (Reg. No. VA 1-879-256). The key legal issues  
7 disputed by Plaintiff are set forth above.

8

**Defendants' Contentions**

9 Shosho contends that the Disputed Goods in the case are not substantially  
10 similar to Plaintiff's design. Shosho further contends that Shosho did not infringe  
11 Plaintiff's design as Shosho is merely a re-seller who did not design or manufacture  
12 the Disputed Goods, who had no knowledge of Plaintiff's design prior to receipt of  
13 Plaintiff's notification of Plaintiff's design, and who stopped re-selling the Disputed  
14 Goods upon receipt of Plaintiff's notification. Shosho also contends that it has little  
15 or virtually not control of the manufacturer of the Disputed Goods. Under the  
16 circumstances, Shosho contends that there is no secondary liability or will  
17 infringement.

18

19

**MOTIONS**

20 Plaintiff anticipates filing a Motion for Summary Judgment on the issue of the  
21 liability of Defendants for copyright infringement. Plaintiff also anticipates filing a  
22 motion to amend the complaint to add new parties.

23

**Defendants' Contentions**

24 Shosho anticipates filing an early Motion for Partial Summary Judgment for  
25 non-infringement of copyright and/or for a Judgment on damages – as Shosho  
26 contends the damages are very little.

27

28

**ANTICIPATED CHANGES TO PLEADINGS AND PARTIES**

1 Plaintiff anticipates to file an amended complaint to add parties that have  
2 identified as contributing to the infringement of Plaintiff's Subject Design.  
3

4 **INITIAL DISCLOSURE COMPLIANCE**

5 The parties have agreed to serve their Initial Disclosures no later than April 4,  
6 2016.  
7

8 **DISCOVERY**

9 No discovery has been propounded by either party at this time.  
10

11 In accordance with Rule 26(a)(1)(C), the parties agree to serve their initial  
12 disclosures by April 4, 2016. The parties do not believe that any changes in the  
13 disclosures under Rule 26(a)(1) should be made. The parties do not believe that  
14 discovery should be conducted in phases, or otherwise be limited. The parties believe  
15 that the Federal Rules of Civil Procedure should apply with respect to the limitations  
and procedures for written discovery, fact depositions, and expert depositions.

16 The anticipated deponents include the parties, the timing of which has yet to be  
17 decided. The parties anticipate written discovery requests, including requests for  
18 admission, document requests, and interrogatories pertaining to: the facts and  
19 circumstances surrounding the copyright application, registration, and commercial  
20 use of the Subject Design and the prosecution and enforcement thereof; the alleged  
21 harm Plaintiff suffered as a result of Defendant's alleged wrongful conduct; and the  
22 advertisement, sale, offering for sale, and purchase of the infringing garment. A  
23 proposed schedule for completion of all discovery is contained in Exhibit A and  
24 attached hereto.

25 The parties do anticipate this case will involve the discovery of confidential  
26 commercial information and therefore intend to seek a Protective Order to address the  
27 parties' respective claims of confidentiality and trade secrets with respect to  
28 documents and information that they anticipate will be sought by way of discovery.

1       The parties agree that service of discovery and discovery responses and  
2 document productions shall be effectuated by email to counsel for the parties;  
3 provided the receiving party confirms receipt of the email.

4

5       8. **RELATED CASES**

6       There are no related cases or proceedings pending before another judge of this  
7 court, or before another court or administrative body.

8

9       9. **RELIEF SOUGHT**

10       Plaintiff cannot state a specific damage amount at this time as it has not yet  
11 obtained Defendant's documents showing the quantity of products produced,  
12 marketed, and sold by Defendants, and the amount of profits and costs that were  
13 incurred. After finishing discovery, Plaintiff will seek general/special damages,  
14 including disgorgement of profits, market damage, and/or statutory damages, as well  
15 as other damages the court may deem proper such as litigation costs, punitive  
16 damages, and permanent injunction.

17

18       10. **STATUS OF CERTIFICATION OF INTERESTED PARTIES**

19       Plaintiff has filed its Certification of Interested Parties disclosing the following  
20 entities:

21       1. CITY PRINTS LLS (Defendant)  
22       2. SHOSHO FASHION, INC. (Defendant)  
23       3. ROSS STORES, INC. (Defendant)  
24       4. L'PATRICIA (Defendant)

25

26       11. **TIMETABLE**

27       Discovery Cut-off: December 13, 2016

1 Motion Hearing Cut-off: January 27, 2017

2 Final Pretrial Conference: March 5, 2017

3 Trial Date: March 13, 2017

4

5 12. **TRIAL ESTIMATE**

6 The parties request a jury trial and estimate a trial of no more than 4 days.

7 Plaintiff anticipates calling 1-3 witnesses.

8

9 13. **SETTLEMENT/ADR**

10 The parties are discussing preliminary settlement. The parties have already  
11 participated in a mediation session, but were unable to reach a resolution. To the  
12 extent that a settlement is not reached, the parties are amenable to ADR Procedure  
13 #2—the parties shall appear before a neutral selected from the Court's Mediation  
14 Panel. The parties agree that mediation in this case shall be completed no later than  
15 45 days prior to the final pretrial conference, consistent with Civil L.R. 16-12.5.

16 Furthermore, Shosho has offered to settle this case with Plaintiff based on  
17 disgorgement of its profits. Plaintiff has rejected this offer.

18

19 14. **MANUAL FOR COMPLEX LITIGATION**

20 The parties do not believe that the Manual for Complex Litigation should be  
21 utilized in this case.

22

23 15. **DISPOSITIVE MOTIONS**

24 Plaintiff anticipates filing a Motion for Summary Judgment on the issue of the  
25 liability of Defendants for copyright infringement, given that (a) Plaintiff owns a  
26 valid copyright in the Subject Design, and (b) Defendants were found to be  
27 producing, manufacturing, distributing, and/or offering for sale garments that bore a  
28 design virtually identical to Plaintiff's copyrighted design.

1  
2 16. UNUSUAL LEGAL ISSUES PRESENTED

3 The parties do not anticipate any unusual substantive, procedural, or  
4 evidentiary issues.

5  
6 17. OTHER ISSUES

7 The parties do not anticipate severance, bifurcation, or other ordering of proof.

8  
9  
10 Dated: March 16, , 2016

11 By: /s/ C. Yong Jeong  
12 C. Yong Jeong  
13 Attorney for Plaintiff Neman  
Brothers & Assoc., Inc.

14 Dated: March 16, 2016

15 By: /s/ Robert W. Chong  
16 Robert Chong  
17 Attorney for Defendant Sho Sho  
18 Fashion, Inc.

19 a

20 I hereby attest that all signatories listed above, on whose behalf this notice is being  
21 submitted, concur in the filing's content and have authorized the filing.

22 Dated: March 21, 2016

23 By: /s/C. Yong Jeong  
24 Chan Yong Jeong  
25 Attorney for Plaintiff

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